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HEWLETT PACKARD COMPANY
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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

WHITMORE, STACY

ART UNIT	PAPER NUMBER
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2825

NOTIFICATION DATE	DELIVERY MODE
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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: CHRISTOPHER A. POIRIER, SAMUEL D. NAFFZIGER,
CHRISTOPHER J. BOSTAK

Application No. 10/644,625
Technology Center 2800

Mailed: November 3, 2008

Before KRISTA ZELE *Deputy Chief Appeals Administrator*
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on May 14, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, MISSING CERTIFIED TRANSLATION

The Examiner relied on the foreign reference(s) Kim; Korean Patent Publication 9405466 B1 in rejecting the claims. Full certified English translation(s) of the above noted foreign reference(s) are not of record in the Image File Wrapper (IFW).

When an Examiner relies on a document “in a language other than English, a translation *must* be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection” (emphasis added). MPEP §1207.02. Pursuant to a memorandum dated April 29, 2002 by Stephen G. Kunin, Deputy Commissioner for Patent Examination Policy:

Effective immediately, no appeal should be forwarded to the Board of Patent Appeals and Interferences for decision where: (1) a rejection is supported in whole or part by an abstract without reference to the underlying document, . . . ; or (2) a rejection is supported in whole or part by a prior art document not in the English language, unless accompanied by a translation of the prior art document into English.

The memorandum also states “[i]f the document is in a language other than English and the examiner seeks to rely on that document, a translation *must*

be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection” (emphasis added).

EXAMINER’S ANSWER, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Examiner’s Answer mailed May 18, 2007, under the heading “Grounds of Rejection” is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection of the claims as provided in the Examiner’s Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 and 1207.03 (8th ed. Rev. 6, Sept 2007).

Specifically, the Examiner’s Answer sets forth a rejection of Claims 1-3, 8-13, 16-21, 24-27 as being rejected under 35 USC 102(e) as being anticipated by Shakkarwar (US Patent 6,694,492).

However, a review of the Final Rejection mailed October 17, 2006, sets forth that: Claims 1-3, 8-13, 16-21, 24-27, **29-32** are rejected under 35 USC 102(e) as being anticipated by Shakkarwar (US 6,694,492).

Clarifications as to the status of Claims 29-32 are required

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

1) to obtain full certified English language translation(s) of the above noted foreign reference(s);

2) to complete the IFW by having the translation(s) obtained scanned into the IFW file;

3) to provide copies of the translations obtained to Appellant(s);

4) to vacate the Examiner's Answer mailed 05/18/2007;

5) to issue a new Examiner's Answer setting forth all Grounds of rejection; and

6) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/dpv/dw

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